



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

HMO/145689

PRELIMINARY RECITALS

Pursuant to a petition filed November 19, 2012, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was scheduled on January 3, 2013. The Petitioner did not appear for the hearing and the matter was dismissed as being abandoned on January 4, 2013. On January 8, 2013, the Division of Hearings and Appeals received a rehearing request for the Petitioner. Based on good cause, the rehearing request was granted and a hearing was held on January 31, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's personal care worker (PCW) hours from 4 hours/day to 1 hour/day.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
and
i-Care
By: Attorney Steven Wall
PO Box 11443
Shorewood, WI 53211

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner enrolled in i-Care effective May 1, 2011. i-Care is a Wisconsin licensed health maintenance organization that contracts with the Department of Health Services to provide and pay for Medicaid (MA) benefits for SSI disabled eligible. i-Care is responsible for making benefit coverage determinations under the MA plan.
3. On September 18, 2012, a registered nurse for Quality Assurance Home Health Agency completed a Personal Care Screening Tool (PCST) assessment of the Petitioner. She noted the following:

Bathing – level of help needed: D. Bathes in tub with partial physical assistance of another person. 7 days/week needed. Petitioner has arthritic pain in the hips, back, shoulder, wrist, elbows, ankles, knees. He cannot get in or out of the tub. Pain in his wrists/fingers limits their function. He needs physical assistance to wash areas on his body.

Dressing – level of help needed for upper body: D. Needs partial physical assistance from another person to dress upper body. 7 days/week. Level of help needed for lower body: E. Depends entirely upon another person to dress lower body. 7 days/week. Petitioner states he can put on a shirt but cannot fasten clothing. Petitioner states he has fallen attempting to put on pants, underwear, etc.

Grooming - level of help needed: E. Needs partial physical assistance to groom self because of decreased function of the hands. 7 days/week.

Eating - level of help needed: C. Feeds self but requires physical assistance at meal time with set up. 7 days/week.

Mobility – level of help needed: C. Moves self about with constant supervision and physical intervention to ensure task complete. Petitioner stated someone must hold his arm when the arthritic pain in the back, hip and knees is severe. 4 days/week.

Toileting – level of help needed: D. Needs physical help from another person to use toilet and/or change personal hygiene product. 3x/day, 7 days/week. Petitioner states he has difficulty sitting and rising from a commode.

Transferring – level of help needed: D. Needs physical help of another person but is able to participate. 7 days/week. Petitioner stated he uses the arm of another for transfers. He states he cannot get out of the bed without physical assistance.

Medication Assistance – level of help needed: B. Needs assistance. 2 x/day, 7 days/week.

4. On October 2, 2012, a home health certification and plan of care was completed by the Petitioner's physician. The goals of the Petitioner's plan of care include:
 1. His personal care needs will be met at an optimal level as evidenced by: he is well kempt without body odor and skin remains intact.
 2. He will remain safe in the home with PCW assistance as evidenced by: his home will be clean and free of clutter and he will be free of falls/injuries.
 3. He will be safe in home as evidenced by no falls d/t supervised /assisted transfers and ambulation.

The plan of care indicates the Petitioner will be discharged when the agency is no longer able to provide services or the Petitioner's level of care requires skilled nursing or group home placement.

5. On November 2, 2012, i-Care received a prior authorization request from Quality Assurance Home Health Agency seeking approval for the Petitioner to receive 16 units/day (4 hours/day) of PCW services for the certification period of September 12 – November 10, 2012.
6. On November 8, 2012, two i-Care registered nurses conducted a home visit with the Petitioner. The i-Care nurses completed a PCST. The nurses observed the Petitioner greet them at the door, walking with his wheeled walker. They noted he was wearing pajama bottoms, t-shirt, robe and slip-on shoes. He was observed to bend over while sitting on the couch to get his coffee mug and held the coffee mug for the assessment. The Petitioner told the nurses he needs assistance with bathing, shaving, fixing food, cleaning and getting to doctor appointments. He told the nurses his daughter gets his clothes ready but he is able to dress himself most days. He stated he is able to brush his teeth and feed himself though he needs assistance with meal preparation and set-up. He indicated that he is generally able to toilet himself and can ambulate with the assistance of his cane or walker. The Petitioner stated he sometimes forgets to take his medications. He does not need assistance getting out of bed though he generally sleeps on the couch.
7. Based on the home visit, the nurses completed a PCST as follows:

Bathing – level of care needed: C. Petitioner is able to bathe himself in tub but requires presence of another person throughout the task for constant supervision to provide immediate intervention to ensure completion of the task. 7 days/week. Petitioner needs assistance getting in and out of the tub but is able to wash himself independently.

Dressing – level of help needed for upper body: A. Petitioner is able to dress the upper body without assistance or is able to dress himself if clothing is handed to him.

Dressing – level of help needed for lower body: A. Petitioner is able to dress the lower body without assistance or is able to dress himself if clothing is handed to him.

Grooming – level of help needed: A. Petitioner is able to groom himself without the use of assistive devices or adapted methods.

Eating – level of help needed: A. Petitioner is able to feed himself without the use of assistive devices or adapted methods.

Mobility – level of help needed: A. Petitioner is able to ambulate by himself.

Toileting – level of help needed: A. Petitioner is able to toilet himself with or without an assistive device.

Transferring – level of help needed: A. Petitioner is able to transfer himself with or without an assistive device.

Medication Assistance – level of help needed: Not applicable.
8. Based on the i-Care PCST completed on November 8, 2012, the Petitioner was notified that his PCW hours would be reduced from 4 hours/day to 1 hour/day.
9. The Petitioner's primary diagnosis is Arthropathy. Other diagnoses include lumbosacral neuritis and depressive disorder.
10. The Petitioner lives alone in his apartment. His son lives in an upstairs apartment. The Petitioner's daughter is his personal care worker.

DISCUSSION

i-Care is required to provide or arrange for the provision of medically necessary and appropriate medical services for its enrollees as required under Wis. Stats. § 49.46(2), and Wis. Admin. Code § DHS 107(1). Wisconsin Administrative Code § DHS 107.112(1) states that Wisconsin Medicaid covered personal care

services are those medically oriented activities that are related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.

To obtain a PA for personal care services, providers are required to submit documents to the MA program that accurately and completely demonstrate the need for the requested personal care services. Providers are to use the Personal Care Screening Tool (PCST) to determine the allocation of PCW time needed. The PCST is a tool that collects information on an individual's ability to accomplish activities of daily living, instrumental activities of daily living, medically oriented tasks delegated by an RN and the member's need for personal care worker assistance with these activities in the home. The PCST must be completed based on a face-to-face evaluation of the member in the member's home. The screener must directly observe the member performing the activity before selecting the member's level of need.

A Personal Care Activity Time Allocation Table is used by providers to assist in prorating time for service-specific activities provided by personal care workers.

At the hearing, the Petitioner testified that his PCW assists him with dressing, cleaning, meals, laundry, picking up medications. He states that he told the i-Care nurses that he receives assistance with these tasks during the home visit. Specifically, with regard to dressing, he states that his daughter helps to dress him every day. He testified that his arthritis prevents him from being able to dress himself. He noted that he usually changes his clothing just one time each day unless he has a doctor appointment. In addition, he stated that he needs occasional help with shaving, brushing his teeth and toileting. Specifically, he testified that he needs help on "bad days" when his arthritis is causing him pain. He noted that his PCW prepares his meals for him but he can feed himself. He stated that he can ambulate with the use of a cane and walker. He can administer his own medications but sometimes needs reminders to take his medication.

The agency noted that bathing includes a change of dressing 1x/day. The agency also noted that it could not identify how Quality Assurance determined 16 units/day of PCW care based on its PCST. The amount of time that Quality Assurance allocated does not compute with the Personal Care Activity Time Allocation Table.

Based on the Petitioner's testimony and the evidence produced by Quality Assurance and i-Care, I conclude the following:

Bathing – Petitioner should be coded as C – he needs assistance getting in and out of the tub but he can wash himself independently. 60 minutes/day including one dressing change.

Dressing – upper and lower body. Petitioner should be coded as B. He intermittently requires the supervision or cueing of another person when his arthritis is bad. Because the Petitioner generally has one clothing change/day, no additional time is allocated because one dressing is included in the bathing time.

Grooming – Petitioner should be coded as B. He intermittently requires another person to supervise or help with the task when his arthritis is bad. The Personal Care Activity Time Allocation Table does not allocate any minutes for level B.

Eating – Petitioner should be coded as C. He needs assistance at meal time to set-up. The Personal Care Activity Time Allocation Table allocates 5 minutes x 3x/day (15 minutes/day), 7 days/week for this level of care.

Mobility – Petitioner should be coded as B. He intermittently requires the supervision of another person when his arthritis is bad. The Personal Care Activity Time Allocation Table does not allocate any minutes for level B.

Toileting – Petitioner should be coded as B. He intermittently requires the supervision of another person when his arthritis is bad. The Personal Care Activity Time Allocation Table does not allocate any minutes for level B.

Transfers – Petitioner should be coded as B. He intermittently requires the supervision of another person when his arthritis is bad. The Personal Care Activity Time Allocation Table does not allocate any minutes for level B.

Medication Assistance - Petitioner should be coded as B. He needs reminders. The Personal Care Activity Time Allocation Table does not allocate any minutes for level B.

Based on the greater weight of the evidence presented, I conclude that the Petitioner should be allocated 75 minutes/day of PCW time – 60 minutes/day for bathing (including one dressing change) and 15 minutes/day for meal set-up. He demonstrated at the hearing that he occasionally or intermittently needs additional assistance when his arthritis is bad and that he always needs assistance with meal set-up. However, I could not determine from Quality Assurance's PCST how the nurse allocated 4 hours/day nor did I find evidence sufficient to conclude that her assessment of his need for dressing, grooming, mobility, transfers, toileting and medication assistance are supported by the evidence submitted at the hearing.

CONCLUSIONS OF LAW

The Petitioner should be allocated 75 minutes/day of PCW time – 60 minutes/day for bathing (including one dressing change) and 15 minutes/day for meal set-up.

THEREFORE, it is

ORDERED

That this matter be remanded to the agency to take the administrative steps necessary to increase the Petitioner's PCW time from 60 minutes/day to 75 minutes/day for the certification period of September 12 – November 10, 2012. This action shall be taken within 10 days of the date of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

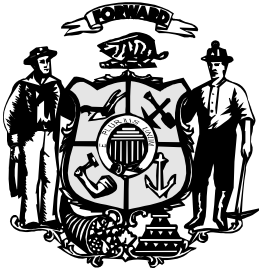
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of February, 2013

\s\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on February 21, 2013.

Division of Health Care Access And Accountability



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